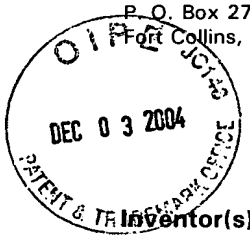
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

AF/2173 IAW

PATENT APPLICATION

ATTORNEY DOCKET NO. 10002667-1



IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Raja Daoud, et al.

Confirmation No.: 6409

Application No.: 09/764,521

Examiner: Blaine T. Basom

Filing Date: 01/18/2001

Group Art Unit: 2173

Title: METHOD AND APPARATUS TO OPTIMIZE A COMPUTING SESSION BASED ON USER INTERACTION WITH A COMPUTER

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on **09/30/2004**.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $340.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( )	one month	$110.00
( )	two months	$430.00
( )	three months	$980.00
( )	four months	$1530.00

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of **$340.00**. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

(X) I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450. Date of Deposit: **11/30/2004**

OR

( ) I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number_____ on _____

Number of pages:

Typed Name: **Gregory W. Osterloth**

Signature: _____

Respectfully submitted,

Raja Daoud, et al.

By _____

Gregory W. Osterloth

Attorney/Agent for Applicant(s)
Reg. No. **36,232**

Date: **11/30/2004**

Telephone No.: **(303) 291-3200**

OIPE JC143
DEC 0 3 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No.	:	09/764,521	Confirmation No. 6409
Appellant	:	Raja Daoud, et al.	
Filed	:	January 18, 2001	
TC/A.U.	:	2173	
Examiner	:	Blaine T. Basom	
Docket No.	:	10002667-1	

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
PO Box 1450
Alexandria VA 22313-1450

APPEAL BRIEF

Table of Contents

Section:

Table of Contents i
Real Party in Interest 2
Related Appeals and Interferences 3
Status of Claims 4
Status of Amendments 5
Summary of Claimed Subject Matter 6
Grounds of rejection to be Reviewed on Appeal 7
Argument 8
Claims Appendix A-1
Evidence Appendix B-1
Related Proceedings Appendix C-1

OIPE JC143
DEC 0 3 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No.	:	09/764,521	Confirmation No. 6409
Appellant	:	Raja Daoud, et al.	
Filed	:	January 18, 2001	
TC/A.U.	:	2173	
Examiner	:	Basom, Blaine T.	
Docket No.	:	10002667-1	

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
PO Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in response to the Examiner's Final Office Action dated March 30, 2004.

Appellants filed a Notice of Appeal on September 30, 2004.

12/06/2004 RMEBRAHT 00000037 082025 09764521
01 FC:1402 340.00 DA

Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, Texas 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, California. The general or managing partner of HPDC is HPQ Holdings, LLC.

Related Appeals and Interferences

There are no related appeals and/or interferences.

Status of Claims

Claims 1-20 are pending, all of which stand rejected and are appealed. A copy of the claims is attached as an Appendix to this Appeal Brief.

Status of Amendments

No amendments have been filed following final rejection.

Summary of Claimed Subject Matter

In one embodiment (claim 1), a method for optimizing a computing session for a particular user (p. 2, line 28) comprises monitoring user interaction with a computer (p. 3, line 15); generating an interaction profile based on said monitored user interaction (p. 3, lines 19-20); and then optimizing the computing session based at least in part on the generated interaction profile (p. 4, lines 13-15) and on a response policy (p. 3, lines 27-30). Generating the interaction profile includes assigning a user patience level (p. 3, lines 21-23) for the particular user. Generating the interaction profile may also comprise identifying a user purpose (claim 2; p. 8, lines 15-23).

In another embodiment (claim 8), apparatus for optimizing a computing session for a particular user (p. 2, line 28) comprises at least one computer readable storage media (p. 6, lines 26-28) having computer readable program code (FIG. 1, memory 140; p. 6, lines 16-21) stored thereon. The program code comprises instructions to generate an interaction profile (p. 3, lines 19-20) including a user-specific patience level (p. 3, lines 21-23), and a response policy (p. 3, lines 27-30). The program code also comprises instructions to 1) monitor a user's interaction with a computer (p. 3, line 15), 2) update the interaction profile based on the monitored user interaction (p. 3, lines 19-20), and 3) optimize the computing session based at least in part on the interaction profile (p. 4, lines 13-15) and on the response policy (p. 3, lines 27-30).

In yet another embodiment (claim 16), apparatus for optimizing a computing session for a particular user (p. 2, line 28) comprises a means for monitoring user interaction with a computer (p. 3, line 15), a means for generating an interaction profile (p. 3, lines 19-20) based on the user interaction (including means for assigning a user patience level (p. 3, lines 21-23) for the particular user), and means for optimizing the user interaction based at least in part on the interaction profile (p. 4, lines 13-15).

Grounds of Rejection to be Reviewed on Appeal

1. Claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,438,592 to Killian in view of U.S. Patent No. 5, 724,070 to Denninghoff et al ("Denninghoff").

Argument

I. Whether claims 1-20 should be rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,438,592 to Killian in view of U.S. Patent No. 5,724,070 to Denninghoff et al ("Denninghoff").

a. Whether claims 1, 3, 5-11 and 13-19 should be rejected under 35 U.S.C. 103(a) as being unpatentable over Killian in view of Denninghoff.

Appellants' claim 1 recites:

> Claim 1: A method for optimizing a computing session for a particular user, comprising:
>
> monitoring user interaction with a computer during said computing session;
>
> generating an interaction profile based on said monitored user interaction, said generating including assigning a user patience level for the particular user; and
>
> optimizing said computing session based at least in part on said generated interaction profile and on a response policy.

In the Examiner's first Office Action, the Examiner rejected Applicants' claims over Killian alone. Applicants then merged some of their dependent claim limitations into their independent claims and argued that their amended claims were not taught by Killian. More specifically, and in reference to claim 1, *supra*, Applicants argued that "assigning a user patience level for [a] particular user", in the context of "optimizing a computing session for [the] particular user", was not taught by Killian. In response to this argument, the Examiner conceded that:

> . . .Killian teaches generating a user patience level, but contrary to claim 1, this user patience level is assigned for a particular web page, and not for a particular user.
>
> Final Office Action, p. 5, lines 12-13.

However, the Examiner then asserted:

> . . .Denninghoff teaches that the amount of content transmitted to the user may be based on the patience of the particular user (see column 4, lines 19-25). Therefore, it would have been obvious to one of ordinary skill in the art. . .to modify the server taught by Killian to additionally generate and assign a user patience level to each particular client computer, such that as done by Denninghoff, the server transmits an amount of content to each client based on this patience level.
>
> Final Office Action, p. 5, line 17 – p. 6, line 1.

Applicants disagree.

As taught by Denninghoff in col. 2, lines 1-14 for example, Denninghoff describes the use of "progressive image transmission and display" wherein ". . .information is transferred in such a way that a receiving computer can initially and quickly reconstruct a low-quality or relatively low-resolution version of the ultimate image for the immediate gratification of the user. As more information is transmitted, the receiving computer can display an image at progressively increasing quality or resolution. . .". Denninghoff then states that, "At any time during the transmission, the user can decide that the image is not worth the wait and can abort the transfer." A similar statement is made by Denninghoff in col. 4, lines 22-25. Applicants note, however, that Denninghoff never discloses how to optimize a user's computing session by "monitoring user interaction" or "generating an interaction profile. . .including assigning a user patience level for the particular user". Rather, Denninghoff just provides the same set of data to all users, but enables its display in such a manner that each user can "abort" the display of higher resolution versions of the data. Although each user may choose to "abort" at a different time, based on their own particular patience level, Denninghoff's methods and apparatus provide absolutely no teaching or suggestion that a user's patience level should be monitored or tracked, or that the user's computing session should then be optimized in response to their own particular patience level.

In response to the above arguments, the Examiner indicated in his Advisory Action that:

> . . .The Applicant argues that Denninghoff fails to teach monitoring a user patience level, and optimizing a computing session based on this patience level. The Examiner agrees. However, the Examiner notes that Killian teaches monitoring user patience, and when combined with Denninghoff, teaches maintaining a user patience level for each user, and optimizing a computing session based on this patience level. . ."

In light of the above statements, Applicants believe the Examiner is missing the point of Applicants' above arguments. The point of Applicants' above arguments is to show that ***Denninghoff fails to disclose "assigning a user patience level for [a] particular user".*** As previously indicated, the Examiner admits that Killian fails to disclose this. If Denninghoff also fails to disclose or suggest this, then the Examiner's rejection of Applicants' claim 1 must fail. As Applicants explain above, Denninghoff not only fails to disclose "assigning a user patience level for [a] particular user", but also fails to disclose "generating an interaction profile", or even "monitoring user interaction with a computer" in general. Rather, Denninghoff only discloses that data is provided to all users in the same way, but provided in such a way that users receive low resolution data more quickly – thereby enabling each user to make an earlier decision on whether to abort (or not abort) the further loading of a web page. The user's patience in deciding whether to abort (or not) is not monitored, stored or in any way noted for the purpose of later "optimizing a computing session for a particular user". Thus, both Killian and Denninghoff fail to disclose "assigning a user patience level for [a] particular user".

Given that neither Killian nor Denninghoff disclose "optimizing a computing session for a particular user", including "assigning a user patience level for [a] particular user", Applicants believe their claim 1 should be allowed. Their claims 2-7 should be allowed at least for the reason that they depend from an allowable claim 1. Their claims 8-20 should be allowed for reasons similar to why claim 1 should be allowed.

b. Whether claims 2, 4, 12 and 20 should be rejected under 35 U.S.C. 103(a) as being unpatentable over Killian in view of Denninghoff.

Claims 2, 4, 12 and 20 are believed to be allowable for the reasons set forth in section a) of this Argument, as well as for additional reasons. Appellants' claim 2 recites:

> Claim 2: The method of claim 1, wherein generating the interaction profile comprises: identifying a user purpose.

The Examiner states that:

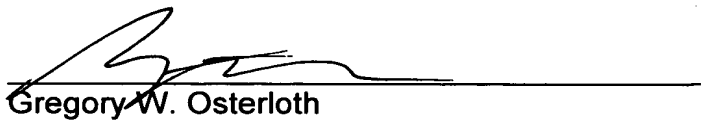
> ...the total number of delivered URL requests corresponding to each web page, and a count of the average time required for the server to receive a URL request for each web page and subsequently send out the data corresponding to the web page (see column 23, lines 26-30, and column 22, lines 52-66). It is understood that this data indicates user purpose, specifically the relative popularity of web pages as desired by the users.
>
> Final Office Action, page 7, lines 6-11.

Appellants fail to see any relationship between a web page's popularity (which is web page-centric) and a user's purpose (which is user-centric). Appellants provide several examples of what a "user purpose" might be, such as: research, shopping, searching or browsing (p. 8, lines 8-23). A user associated with any one or more of these purposes could visit more or less popular web pages. Given that Applicants cannot discern any connection between web page popularity and user purpose, Applicants believe their claims 2, 4, 12 and 20 are additionally allowable over the combined teachings of Killian and Denninghoff.

Conclusion

In summary, the art of record does not teach nor suggest the subject matter of Appellants' claims 1-20. These claims are therefore believed to be allowable.

Respectfully submitted,
DAHL & OSTERLOTH, L.L.P.

By: 

Gregory W. Osterloth
Reg. No. 36,232
Tel: (303) 291-3200

OIPE
DEC 0 3 2004
PATENT & TRADEMARK

Claims Appendix

1. A method for optimizing a computing session for a particular user, comprising:

monitoring user interaction with a computer during said computing session;

generating an interaction profile based on said monitored user interaction, said generating including assigning a user patience level for the particular user; and

optimizing said computing session based at least in part on said generated interaction profile and on a response policy.

2. The method of claim 1, wherein generating the interaction profile comprises:

identifying a user purpose.

3. The method of claim 1, wherein said user patience level is assigned in response to monitoring user abort time and user abort frequency.

4. The method of claim 2, wherein said user purpose is identified by monitoring user queries and measuring a time between said monitored user queries.

5. The method of claim 1, wherein generating said interaction profile comprises gathering system data including a user platform type, available resources, and an identification of an application which is in use.

6. The method of claim 1, wherein optimizing said computing session comprises allocating a number of resources based at least in part on said generated interaction profile and on said response policy.

7. The method of claim 1, wherein optimizing said computing session comprises formatting output for an application based at least in part on said generated interaction profile and on said response policy.

8. An apparatus for optimizing a computing session for a particular user, comprising:

at least one computer readable storage media;

computer readable program code stored on said at least one computer readable storage media, said computer readable program code comprising:

a. program code for generating an interaction profile and a response policy, said interaction profile including a user patience level for the particular user;

b. program code for monitoring user interaction with a computer;

c. program code for updating said interaction profile based on said user interaction; and

d. program code for optimizing said computing session based at least in part on said interaction profile and on said response policy.

9. The apparatus of claim 8, wherein said program code for optimizing said computing session comprises program code for allocating a number of resources based at least in part on said interaction profile and on said response policy.

10. The apparatus of claim 8, wherein said program code for optimizing said computing session comprises program code for formatting output, said program code for formatting output dictating a level of display detail.

11. The apparatus of claim 8, wherein said interaction profile includes system data and user data.

12. The apparatus of claim 11, wherein said user data includes at least a user purpose and said user patience level.

13. The apparatus of claim 11, wherein said system data includes at least a platform type, an application ID, and resource availability.

14. The apparatus of claim 8, wherein said program code is an applet.

15. The apparatus of claim 8, wherein said user interaction is through an Internet browser.

16. An apparatus for optimizing a computing session for a particular user, comprising:

means for monitoring user interaction with a computer;

means for generating an interaction profile based on said user interaction, said means for generating including means for assigning a user patience level for the particular user; and

means for optimizing said user interaction based at least in part based on said interaction profile.

17. The apparatus of claim 16, wherein said optimizing means further comprises means for formatting output of said application.

18. The apparatus of claim 16, wherein said optimizing means further comprises means for allocating a number of resources based at least in part on said interaction profile.

19. The apparatus of claim 18, wherein said number of resources are allocated to optimize delivery time of content for said particular user.

20. The apparatus of claim 16, wherein said means for generating further comprises:

means for identifying a user purpose;

means for creating a session ID based on said assigned user patience level and on said identified user purpose.

OIPE
DEC 0 3 2004
PATENT & TRADEMARK

Evidence Appendix

None.

Related Proceedings Appendix

None.